

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

TAIFUSIN CHIU,

Plaintiff,

v.

PRESIDENT OF THE UNITED STATES,
et al.,

Defendants.

Case No. 2:23-cv-00835-DJC-JDP (PS)

ORDER GRANTING PLAINTIFF'S
APPLICATION TO PROCEED *IN FORMA
PAUPERIS*

ECF No. 4

FINDINGS AND RECOMMENDATIONS
THAT PLAINTIFF'S FIRST AMENDED
COMPLAINT BE DISMISSED AS
FRIVOLOUS

ECF No. 3

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

Plaintiff's first amended complaint purports to assert claims against the President of the United States and One-Dollar Tree. His complaint, however, fails to state a claim, and I will recommend that it be dismissed as frivolous. I will grant plaintiff's application to proceed *in forma pauperis*, ECF No. 4, which makes the showing required by 28 U.S.C. §§ 1915(a)(1) and (2).

Screening and Pleading Requirements

A complaint must contain a short and plain statement that plaintiff is entitled to relief, Fed. R. Civ. P. 8(a)(2), and provide "enough facts to state a claim to relief that is plausible on its

1 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
 2 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
 3 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
 4 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
 5 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
 6 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
 7 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
 8 n.2 (9th Cir. 2006) (en banc) (citations omitted).

9 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
 10 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
 11 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
 12 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
 13 However, “a liberal interpretation of a civil rights complaint may not supply essential elements
 14 of the claim that were not initially pled.” *Brunsv v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
 15 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

16 Analysis

17 The complaint, which is largely incoherent, fails to assert any cause of action against
 18 either of the named defendants. *See generally* ECF No. 3. The sentences in the complaint are
 19 mostly nonsensical and give no notice of the claims that plaintiff is attempting to allege. For
 20 example, plaintiff writes, “999 USD Beegooggolplex Number President Show Down and USD
 21 Infinite President Show down Maximum Number to Infinite USD President Achievement versus
 22 no achievement Restrict versus picky Boundary line versus border line” *Id.* at 4.

23 The complaint fails to comport with Rule 8’s requirement that it present a short and plain
 24 statement of plaintiff’s claims. Fed. R. Civ. P. 8(a). Plaintiff names the President of the United
 25 States and One-Dollar Tree as defendants but asserts no discernable facts relating to them.
 26 Moreover, plaintiff’s allegations against these defendants do not identify any actions taken by
 27 them that could support a claim for relief. *See Jones v. Cnty. Redev. Agency*, 733 F.2d 646, 649
 28 (9th Cir. 1984) (“The plaintiff must allege with at least some degree of particularity overt acts

1 which defendants engaged in that support the plaintiff's claim."'). Plaintiff must allege with at
2 least some degree of particularity overt acts of defendants that support his claims. *Id.*

3 The operative complaint should be dismissed for failure to state a claim. Given the
4 complaint's allegations, I find that granting plaintiff an opportunity to amend would not cure the
5 complaint's deficiencies, and so I recommend that dismissal be without leave to amend.¹ *See*
6 *Schucker v. Rockwood*, 846 F.2d 1202, 1203-04 (9th Cir. 1988) (per curiam) ("Dismissal of a pro
7 se complaint without leave to amend is proper only if it is absolutely clear that the deficiencies of
8 the complaint could not be cured by amendment.") (internal quotation marks and citations
9 omitted).

10 Accordingly, it is hereby ORDERED that plaintiff's request for leave to proceed *in forma
11 pauperis*, ECF No. 4, is granted.

12 Furthermore, it is hereby RECOMMENDED that:

13 1. Plaintiff's first amended complaint, ECF No. 3, be dismissed without leave to amend.
14 2. The Clerk of Court be directed to close this matter.

15 These findings and recommendations are submitted to the United States District Judge
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
17 after being served with these findings and recommendations, any party may file written
18 objections with the court and serve a copy on all parties. Such a document should be captioned
19 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
20 objections shall be served and filed within fourteen days after service of the objections. The
21 parties are advised that failure to file objections within the specified time may waive the right to
22

23 ¹ Plaintiff has filed other complaints resembling in some ways the instant complaint, and
24 none have survived screening. *See Chiu v. Trump*, 2:22-cv-00764-KJM-AC (PS) (May 11, 2022
25 E.D. Cal) (plaintiff's complaint dismissed without leave to amend and with prejudice); *Chiu v.
26 President of the United States*, 2:22-cv-00809-TLN-DB (PS) (Oct. 24, 2022 E.D. Cal) (plaintiff's
27 complaint dismissed without leave to amend); *Chiu v. Extra Storage Space*, 2:23-cv-00099-KJM-
28 AC (PS) (Jan. 23, 2023 E.D. Cal) (plaintiff's complaint dismissed without leave to amend); *Chiu v.
President of U.S.*, 2:23-cv-00098-KJM-JDP (PS) (July 11, 2023 E.D. Cal) (plaintiff's
complaint dismissed without leave to amend); *Chiu v. Bank of America*, 2:23-cv-01201-KJM-AC
(PS) (Aug. 28, 2023 E.D. Cal) (plaintiff's complaint dismissed without leave to amend).

1 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
2 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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4 IT IS SO ORDERED.
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6 Dated: December 5, 2023
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6 JEREMY D. PETERSON
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JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE